

## SECRETARY OF STATE[721]

### Notice of Intended Action

**Twenty-five interested persons, a governmental subdivision, an agency or association of 25 or more persons may demand an oral presentation hereon as provided in Iowa Code section 17A.4(1)“b.”**

**Notice is also given to the public that the Administrative Rules Review Committee may, on its own motion or on written request by any individual or group, review this proposed action under section 17A.8(6) at a regular or special meeting where the public or interested persons may be heard.**

Pursuant to the authority of Iowa Code sections 47.1 and 17A.3, the Secretary of State hereby gives Notice of Intended Action to amend Chapter 21, “Election Forms and Instructions,” and Chapter 22, “Voting Systems,” Iowa Administrative Code.

These proposed amendments are necessary due to legislative changes made to Iowa’s election laws during the 2009 legislative session. These amendments provide security procedures for general elections in which county commissioners are required to or decide to count absentee ballots on the day before the election as now permitted by Iowa Code section 53.23, subsection 3, paragraph “c,” as amended by 2009 Iowa Acts, House File 670. In addition, these amendments prescribe the form of the official ballot as required by 2009 Iowa Code Supplement sections 43.31 and 49.57A [2009 Iowa Acts, House File 475, sections 6 and 32].

Any interested person may make written suggestions or comments on these proposed amendments on or before March 16, 2010. Written suggestions and comments should be directed to Sarah Reisetter, Elections Director, Office of the Secretary of State, First Floor, Lucas State Office Building, Des Moines, Iowa 50319.

Persons who want to convey their views orally should contact the Secretary of State’s office on the first floor of the Lucas State Office Building. Requests for a public hearing must be received by 4:30 p.m. on Tuesday, March 16, 2010.

These amendments are intended to implement Iowa Code chapters 39A, 43, 49 and 53 as amended by 2009 Iowa Acts, House Files 475 and 670.

The following amendments are proposed.

ITEM 1. Adopt the following new rule 721—21.202(43,52):

**721—21.202(43,52) Form of primary election ballot.** All primary election ballots shall meet the following formatting requirements:

**21.202(1) Required information.** In addition to other requirements listed in the Iowa Code, primary election ballots shall also include the following information:

- a. The name of the election.
- b. The name of the party, which shall be printed at the top of the ballot in at least 24-point type.
- c. The name of the county.
- d. Instructions for how to mark the ballot.

**21.202(2) Headings and lines.** Federal offices, state offices and county offices printed on the ballot shall be preceded by a heading identifying the offices as “Federal Offices,” “State Offices,” and “County Offices.” Each heading shall be separated from the previous section of the ballot by a distinct line.

**21.202(3) Office titles and order of offices.** Each office printed on the ballot shall be preceded by an office title. The order of offices on the primary election ballot shall be as follows:

a. In gubernatorial election years, the order of office titles on the primary election ballot shall be listed as follows:

- (1) U.S. Senator (if any).
- (2) U.S. Representative, District \_\_\_\_.
- (3) Governor.
- (4) Secretary of state.

- (5) Auditor of state.
- (6) Treasurer of state.
- (7) Secretary of agriculture.
- (8) Attorney general.
- (9) State senator, district \_\_\_\_ (if any).
- (10) State representative, district \_\_\_\_.
- (11) Board of supervisors (if plan II or plan III, then board of supervisors, district \_\_\_\_).
- (12) Treasurer.
- (13) Recorder.
- (14) County attorney.

b. In presidential election years, the order of office titles on the primary election ballot shall be listed as follows:

- (1) U.S. Senator (if any).
- (2) U.S. Representative, District \_\_\_\_.
- (3) State senator, district \_\_\_\_ (if any).
- (4) State representative, district \_\_\_\_.
- (5) Board of supervisors (if plan II or plan III, then board of supervisors, district \_\_\_\_).
- (6) Auditor.
- (7) Sheriff.

c. If an office is printed on the primary election ballot followed by the words “To Fill Vacancy,” that office shall be listed after the other offices under the appropriate heading. If the office followed by the words “To Fill Vacancy” is the board of supervisors, that office shall appear after the other board of supervisors office(s).

**21.202(4) *Vote for number.*** Under each office title, the number of choices a voter may make in the race shall be printed in the following form: “Vote for no more than \_\_\_\_.” The number of choices the voter may make for each race is the number of individuals to be elected to the office at the general election.

**21.202(5) *Write-in vote targets.*** After the candidates’ names for each office (if any), a target shall be placed next to a line for voters to write in a nominee for the office. The number of write-in targets and lines printed under each office shall match the vote for number referenced in subrule 21.202(4). Under each write-in line, the following words shall be printed: “Write-in vote, if any.”

**21.202(6) *Font size.*** Candidates’ names shall be printed in upper and lower case letters, and the font size shall be no less than 10-point type.

**21.202(7) *Two-sided ballots.*** If a primary election ballot must be printed on two sides, the words “Turn the ballot over” shall be printed on both sides of the ballot, at the bottom.

This rule is intended to implement 2009 Iowa Code Supplement section 43.31 [2009 Iowa Acts, House File 475, section 6].

ITEM 2. Adopt the following **new** rule 721—21.203(49,52):

**721—21.203(49,52) Form of general election ballot.** All general election ballots shall meet the following formatting requirements:

**21.203(1) *Required information.*** In addition to other requirements listed in the Iowa Code, general election ballots shall also include the following information:

- a. The name of the election.
- b. The name of the county.
- c. Instructions for how to mark the ballot, including instructions for voting on judicial retentions and constitutional amendments or public measures and instructions for straight-party voting.
- d. Ballot location of the judges’ names and any constitutional amendment(s).

**21.203(2) *Headings and lines.*** Straight-party voting, other political organizations, federal offices, state offices, county offices, judges and public measures printed on the ballot shall be preceded by a heading identifying the sections, offices or questions as “Straight Party Voting,” “Other Political Organizations,” “Federal Offices,” “State Offices,” “County Offices,” “Judges,” and “Public Measures.” Each heading shall be separated from the previous section of the ballot by a distinct line.

**21.203(3)** *Office titles, order of offices and public measures.* Each office printed on the ballot shall be preceded by an office title. The order of offices and public measures listed on the general election ballot shall be as follows:

*a.* In gubernatorial election years, the order of office titles and public measures on the general election ballot shall be listed as follows:

- (1) U.S. Senator (if any).
- (2) U.S. Representative, District \_\_\_\_.
- (3) Governor and lieutenant governor.
- (4) Secretary of state.
- (5) Auditor of state.
- (6) Treasurer of state.
- (7) Secretary of agriculture.
- (8) Attorney general.
- (9) State senator, district \_\_\_\_ (if any).
- (10) State representative, district \_\_\_\_.
- (11) Board of supervisors (if plan II or plan III, then board of supervisors, district \_\_\_\_).
- (12) Treasurer.
- (13) Recorder.
- (14) County attorney.
- (15) Township trustee (if any).
- (16) Township clerk (if any).
- (17) County public hospital trustee (if any).
- (18) Soil and water conservation district commissioner.
- (19) County agricultural extension council member.
- (20) Other nonpartisan offices (if any).
- (21) Supreme court justice (if any).
- (22) Court of appeals judge (if any).
- (23) District court judge (if any).
- (24) District court associate judge (if any).
- (25) Associate juvenile judge (if any).
- (26) Associate probate judge (if any).
- (27) Public measures (if any). Under the public measures heading, measures shall be listed in the following order:

1. Constitutional amendment (if any).
2. State public measure (if any).
3. County public measure (if any).
4. City public measure (if any).

*b.* In presidential election years, the order of office titles on the general election ballot shall be listed as follows:

- (1) President and Vice President.
- (2) U.S. Senator (if any).
- (3) U.S. Representative, District \_\_\_\_.
- (4) State senator, district \_\_\_\_ (if any).
- (5) State representative, district \_\_\_\_.
- (6) Board of supervisors (if plan II or plan III, then board of supervisors, district \_\_\_\_).
- (7) Auditor.
- (8) Sheriff.
- (9) Township trustee (if any).
- (10) Township clerk (if any).
- (11) County public hospital trustee (if any).
- (12) Soil and water conservation district commissioner.
- (13) County agricultural extension council member.

(14) Other nonpartisan offices (if any).  
 (15) Supreme court justice (if any).  
 (16) Court of appeals judge (if any).  
 (17) District court judge (if any).  
 (18) District court associate judge (if any).  
 (19) Associate juvenile judge (if any).  
 (20) Associate probate judge (if any).  
 (21) Public measures (if any). Under the public measures heading, measures shall be listed in the following order:

1. Constitutional amendment (if any).
2. State public measure (if any).
3. County public measure (if any).
4. City public measure (if any).

c. If an office is printed on the general election ballot followed by the words “To Fill Vacancy,” that office shall be listed after the other offices under the appropriate heading. If the office followed by the words “To Fill Vacancy” is the board of supervisors, that office shall appear after the other board of supervisors office(s).

**21.203(4) *Vote for number.*** Under each office title, the number of choices a voter may make in the race shall be printed in the following form: “Vote for no more than \_\_\_\_”. The number of choices the voter may make for each race is the number of individuals to be elected to the office at the general election. Under the “President and Vice President” office title, “Vote for no more than one team” shall be printed on the ballot. Under the “Governor and Lt. Governor” office title, “Vote for no more than one team” shall be printed on the ballot.

**21.203(5) *Write-in vote targets.*** After the candidates’ names for each office (if any), a target shall be placed next to a line for voters to write in a nominee for the office. The number of write-in targets and lines printed under each office shall match the vote for number referenced in subrule 21.203(4). Under each write-in line, the following words shall be printed: “Write-in vote, if any”. For the offices of President and Vice President, there shall be one write-in target printed to the left of two write-in lines. Under the write-in lines, the commissioner shall print the following: “Write-in vote for President, if any” and “Write-in vote for Vice President, if any”. For the offices of governor and lieutenant governor, there shall be one write-in target printed to the left of two write-in lines. Under the write-in lines, the commissioner shall print the following: “Write-in vote for governor, if any” and “Write-in vote for Lt. governor, if any”.

**21.203(6) *Font size.*** Candidates’ names shall be printed in upper and lower case letters, and the font size shall be no less than 10-point type.

**21.203(7) *Two-sided ballots.*** If a general election ballot must be printed on two sides, the words “Turn the ballot over” shall be printed on both sides of the ballot, at the bottom.

This rule is intended to implement 2009 Iowa Code Supplement section 49.57A [2009 Iowa Acts, House File 475, section 32].

ITEM 3. Adopt the following new rule 721—22.343(39A,53):

**721—22.343(39A,53) Counting absentee ballots on the day before the general election.** When absentee ballots are tabulated on the day before the election as permitted or required by Iowa Code section 53.23 as amended by 2009 Iowa Acts, House File 670, the absentee and special voters precinct board and county commissioner shall implement the following security precautions:

**22.343(1) *Seal and label voted ballot envelopes with date of tabulation.*** The precinct election officials shall seal all ballots tabulated on the day before the election in a voted ballot envelope labeled with the date of tabulation. The precinct election officials shall seal and sign the envelope in a manner that will make it evident if the envelope is opened.

**22.343(2) *Ensure secure storage of all ballots.*** Before adjourning for the day, the precinct election officials shall transfer custody of all absentee ballots to the commissioner. The commissioner shall ensure all absentee ballots are stored in a secure location until tabulation is resumed on election day.

**22.343(3)** *Ensure memory card security.* Before the absentee and special voters precinct board adjourns for the day, the memory card used in the tabulator(s) on the day before the election shall be secured by the precinct election officials in one of the following ways:

*a.* The memory card may be left in the tabulator when a tamper-evident seal is affixed over the memory card in a manner that will make it evident if the seal is removed.

*b.* The memory card may be removed from the tabulator and placed in an envelope. The precinct election officials shall seal the envelope in a manner that will make it evident if the envelope is opened.

**22.343(4)** *Ensure security of the tabulator(s).* Before adjourning for the day, the precinct election officials shall ensure the security of the tabulator(s). The tabulator(s) must be stored in a secure location until the absentee and special voters precinct board resumes tabulation on election day.

**22.343(5)** *No results tape printing on the day before the election.* No results tapes may be printed from the tabulator(s) on the day before the election.

**22.343(6)** *No upload of results to tabulating software until election day.* No results may be uploaded or input into tabulating software on the day before the election.

**22.343(7)** *Verify no tampering before resuming tabulation on election day.* Before tabulation resumes on election day, the absentee and special voters precinct board shall verify the tabulator(s), memory card(s) and memory card port(s) have not been obviously tampered with overnight.

**22.343(8)** *Resume tabulation.* The absentee and special voters precinct board shall resume tabulation using one of the following methods:

*a.* Using the same memory card(s) used on the day before the election and resuming tabulation.

*b.* Using a new memory card(s) and compiling the results contained on the memory card(s) used on election day and on the day before the election.

**22.343(9)** *Print audit logs.* After the election, the audit logs must be printed and be available for public inspection.

This rule is intended to implement Iowa Code section 39A.5, section 1, paragraph “a,” subparagraph (3), and Iowa Code section 53.23 as amended by 2009 Iowa Acts, House File 670.